

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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MOEUN MEACH,      :
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      Petitioner,  :
                  :
      -against-    :      No. 3:02CV938(GLG)
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                  :
JOHN ASHCROFT, ATTORNEY :
GENERAL OF THE UNITED STATES, :
                  :
      Respondent.   :
                  :
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ORDER ON PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Moeun Meach, has filed a Petition for Writ of Habeas Corpus asking this Court to order his release from the Hartford Correctional Facility on the ground that his continued detention is unreasonable and therefore unconstitutional. For the reasons set forth below, the Petition [**Doc. # 1**] is DENIED.

BACKGROUND

Petitioner, a citizen of Cambodia and a legal permanent resident of the United States, entered this country on or around September 21, 1981. (Resp. to Pet. for Habeas Corpus at 1; Declaration of James E. Brown, Jr., Ex. A.) On October 22, 1991, he was convicted by the Commonwealth of Massachusetts for the

murder of a fifteen year-old high school student and was sentenced to eighteen to twenty years incarceration. (Brown Decl. ¶ 3.) On December 11, 1992, the Immigration and Naturalization Service ("INS") issued a final deportation order pursuant to Section 241(a)(2)(A)(iii) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1251(a)(2)(A)(iii), based upon his conviction of an aggravated felony.¹ (Brown Decl. ¶ 4.)

On August 28, 2001, Petitioner was transferred from the custody of the Massachusetts authorities into the custody of the INS. (Brown Decl. ¶ 5.) The INS requested expedited travel documents from the Cambodian Embassy in October 2001. (Brown Decl. ¶ 6, Ex. B.) The Cambodian Embassy told the INS that it could not issue travel documents for Petitioner until the Cambodian and United States governments had signed an agreement on the deportation and return of Cambodian citizens to Cambodia. (Brown Decl. ¶ 7, Ex. C.) On March 22, 2002, the United States and Cambodia signed such a repatriation agreement. (Brown Decl. ¶ 8, Ex. D.)

In late March 2002, Petitioner was taken to California for a personal interview with the Cambodian government regarding his pending deportation. (Brown Decl. ¶ 9.) A personal interview is the last step in the process before the Cambodian Government

¹ Petitioner did not appeal the Immigration Judge's decision, nor does he contest that he is removable as charged. (Mem. in Supp. of Habeas Pet. at 1.)

issues travel documents to permit an alien's return to Cambodia. (Declaration of Kevin McDonald ¶ 4.) On July 8, 2002, the INS requested expedited travel documents from the Cambodian Embassy and is awaiting a response. (Brown Decl. ¶ 11.) The INS expects to remove Petitioner to Cambodia in the reasonably foreseeable future. (Brown Decl. ¶ 12.)

DISCUSSION

Under INA § 241(a)(6), the Attorney General may detain certain criminal aliens, including aggravated felons such as Petitioner, beyond the 90-day removal period during which detention is mandatory. 8 U.S.C. § 1231(a)(6). Relying on Zadvydas v. Davis, 533 U.S. 687 (2001), Petitioner argues that because he has been in INS custody for more than six months, and because the INS "has done nothing to effectuate" his removal, he should be released until the INS is able to deport him. We disagree.

Petitioner's reliance on Zadvydas v. Davis is misplaced. In Zadvydas, the Supreme Court held that INA § 241(a)(6) permits the detention of criminal aliens for the period of time reasonably necessary to bring about their removal from the United States. The Court recognized six months as a presumptively reasonable time to allow the government to accomplish an alien's removal.

This does not mean, however, that "every alien not removed

must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is *no significant likelihood of removal in the reasonably foreseeable future.*" Zadvydas, 533 U.S. at 701 (emphasis added). After six months, if the alien can show the court "good reason to believe that there is no likelihood of removal in the reasonably foreseeable future," the Government must then rebut the alien's showing in order to continue detention. Id. Petitioner has provided no reason to believe that he will not be removed to Cambodia in reasonably foreseeable future; indeed, the Government has responded with evidence sufficient to rebut such a showing and we have every reason to believe that Petitioner's deportation will be accomplished in the reasonably foreseeable future.²

CONCLUSION

For the reasons set forth above, the Petition for Habeas Corpus [**Doc. #1**] is DENIED.

SO ORDERED.

Dated: July 30, 2002
Waterbury, Connecticut

² Petitioner has offered no evidence to suggest that he would not be a danger to the public or a significant flight risk; consequently, he is not able to show that, pending his removal, his release under an order of supervision would be appropriate. 8 C.F.R. § 241.4(d)(1).

_____/s/_____
GERARD L. GOETTEL
United States District Judge